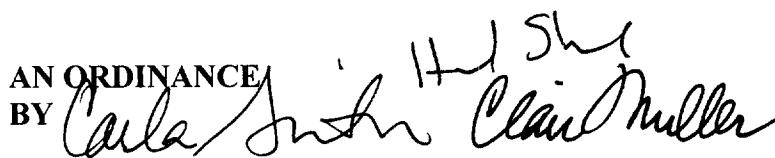


AN ORDINANCE
BY

08-O-

AN ORDINANCE TO AMEND AND CORRECT SECTIONS 5 AND 6 OF ORDINANCE NO. 08-O-0480 FOR THE PURPOSES OF CORRECTING THE LAND ACQUISITION AUTHORIZATION TERMS PERTAINING TO THE SETTLEMENT OF CERTAIN NEGOTIATED ACQUISITIONS WITHOUT FURTHER AUTHORIZATION FROM COUNCIL FOR THE SANDY CREEK BASIN PROJECTS, PROCTOR CREEK BASIN PROJECTS, SOUTH RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTOY CREEK BASIN PROJECTS AND INTRENCHMENT CREEK BASIN PROJECTS (collectively, "Projects"); and FOR OTHER PURPOSES.

WHEREAS, Ordinance No. 08-O-0480 ("Ordinance") was adopted by the Council on April 21, 2008 and approved by the Mayor on April 28, 2008, which, among other things, provided for authorization of the acquisition of certain easements and other property interests related to the Projects, named in the above caption, without further authorization by Council; and

WHEREAS, Sections 5 and 6 of the Ordinance are conflicting and include draftsman errors that need to be corrected. Specifically, Section 5 was intended to provide authorization for the City's land acquisition agent to settle acquisition of certain values but mistakenly authorized the City and the Chief Procurement Officer and his designee, creating a conflict with Section 6 with different authorization limits to the City and the Chief Procurement Officer or his designee; and further should have provided for a qualification for "whichever is greater" to the options provided for settlement in Section 5; and

WHEREAS, Section 6 mistakenly authorized the Chief Procurement Officer or his designee to administratively settle acquisitions of certain values for \$500 dollars, which should have included the language "\$500.00 *over EJC*"; and

WHEREAS, the Commissioner of Watershed Management recommends the change to the Ordinance to correct Sections 5 and 6, as discussed above, so that easement and other acquisitions authorized by the Ordinance can be finally negotiated and closed in accordance with the original intent of the Ordinance, which is of upmost importance in order to avoid any additional delay in the Projects.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

Section 1: Section 5 of Ordinance No. 08-O-0480 is hereby repealed and replaced with the following new Section 5:

The City's land acquisition agent are authorized to settle acquisitions of Property Interests, without further authorization from Council, in an amount not to exceed ten percent (10%) above the EJC and offer an amount not to exceed Two Hundred Fifty Dollars and No Cents (\$250.00) more than the EJC, when the EJC is less than Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), whichever is greater.

Section 2: Section 6 of Ordinance No. 08-O-0480 is hereby repealed and replaced with the following new Section 6:

The City's Chief Procurement Officer or his designee is authorized to administratively settle acquisitions, without further authorization from Council, in an amount not to exceed twenty percent (20%) above the EJC, or for Five Hundred Dollars and No Cents (\$500.00) above the EJC when the EJC is below Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), whichever is greater.

Section 3: All ordinances in conflict with any provision of this ordinance are hereby waived to the extent of the conflict.

08-0-0480

(Do Not Write Above This Line)

AN ORDINANCE BY
CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR OR HER
DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS
FOR THE ACQUISITION OF CERTAIN PERMANENT
EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS
RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY
INTERESTS ASSOCIATED WITH SANDY CREEK BASIN
PROJECTS, PROCTOR CREEK BASIN PROJECTS, SCOTCH
RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS,
LONG ISLAND BASIN PROJECTS, NANCY CREEK BASIN
PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTON
CREEK BASIN PROJECTS, AND ENTRENCHMENT CREEK
BASIN PROJECTS; TO NEGOTIATE WITH PROPERTY
OWNERS TO ACQUIRE NECESSARY PERMANENT
EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS
RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY
INTERESTS, INCLUDING CONDEMNATION PROCEEDINGS
AUTHORIZING THE WAIVER OF APPLICABLE PORTIONS OF
ARTICLE X OF THE CITY'S THE REAL ESTATE AND
PROCUREMENT CODE; AUTHORIZING THE CITY ATTORNEY
TO PROMOTE WITH THE DECLARATIONS OF TAKING
METHOD AUTHORIZED BY O.C.G.A. §22-3-140 AND 22-3-141
ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND
OTHER RELATED PROPERTY INTERESTS NECESSARY TO
COMPLETE THE CAPACITY RELIEF SEWER PROJECTS, ON
BEHALF OF THE DEPARTMENT OF WATERSHED
MANAGEMENT; ALL CONTRACTED WORK AND PAYMENTS
FOR PROPERTY INTERESTS WILL BE CHARGED TO AND
PAID FROM THE APPROPRIATE ACCOUNT NUMBERS
ASSOCIATED WITH FUNDS 5062 (WATER & WASTEWATER
RENEWAL & EXTENSION), 5057 (2001 WATER &
WASTEWATER BOND FUND), 5058 (2004 WATER &
WASTEWATER BOND FUND), AND FUTURE WATER AND
SEWER BOND FUNDS; AND FOR OTHER PURPOSES.

- ☒ **CONSENT REFER**
☐ **REGULAR REPORT REFER**
☐ **ADVERTISE & REFER**
☐ **1st ADOPT 2nd READ & REFER**
☐ **PERSONAL PAPER REFER**

Date Referred 3/17/08
Referred To: City Utilities
Date Referred _____
Referred To: _____
Date Referred _____
Referred To: _____

First Reading
Committee City Utilities
Date APR 21 2008
Chair Carol Miller
Referred To _____

Committee City Utilities
Date APR 21 2008
Chair Carol Miller
Action
Fav. Adv. Hold (see rev. side)
Other

Members
Carol Miller

Refer To
City Utilities

Committee
Date
Chair

Action
Fav. Adv. Hold (see rev. side)
Other

Members

ADOPTED BY
APR 21 2008

Refer To

Committee

Date

Chair

Action
Fav. Adv. Hold (see rev. side)
Other

Members

Refer To

Committee

Date

Chair

Action
Fav. Adv. Hold (see rev. side)
Other

Members

Refer To

FINAL COUNCIL ACTION
☐ 2nd ☐ 1st & 2nd ☐ 3rd
Readings
☐ Consent ☐ V Vote ☒ FC Vote

CERTIFIED

APR 21 2008

CERTIFIED
APR 21 2008

Rock Douglas
MUNICIPAL CLERK

MAYOR'S ACTION

Andy Strickland
MAYOR

**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

AN ORDINANCE AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE ALL APPROPRIATE DOCUMENTS FOR THE ACQUISITION OF CERTAIN PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS ASSOCIATED WITH SANDY CREEK BASIN PROJECTS, PROCTOR CREEK BASIN PROJECTS, SOUTH RIVER BASIN PROJECTS, SUGAR CREEK BASIN PROJECTS, LONG ISLAND BASIN PROJECTS, NANCY CREEK BASIN PROJECTS, PEACHTREE CREEK BASIN PROJECTS, UTOY CREEK BASIN PROJECTS, AND INTRENCHMENT CREEK BASIN PROJECTS; TO NEGOTIATE WITH PROPERTY OWNERS TO ACQUIRE NECESSARY PERMANENT EASEMENTS, TEMPORARY CONSTRUCTION EASEMENTS, RIGHTS-OF-WAY OR OTHER NECESSARY PROPERTY INTERESTS, INCLUDING CONDEMNATION PROCEEDINGS; AUTHORIZING THE WAIVER OF APPLICABLE PORTIONS OF ARTICLE X OF THE CITY'S THE REAL ESTATE AND PROCUREMENT CODE; AUTHORIZING THE CITY ATTORNEY TO PROCEED WITH THE DECLARATIONS OF TAKING METHOD AUTHORIZED BY O.C.G.A. §§22-3-140 AND 32-3-4 TO ACQUIRE TITLE TO RIGHTS-OF-WAY, EASEMENTS AND OTHER RELATED PROPERTY INTERESTS NECESSARY TO COMPLETE THE CAPACITY RELIEF SEWER PROJECTS, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT; ALL CONTRACTED WORK AND PAYMENTS FOR PROPERTY INTERESTS WILL BE CHARGED TO AND PAID FROM THE APPROPRIATE ACCOUNT NUMBERS ASSOCIATED WITH FUNDS 5052 (WATER & WASTEWATER RENEWAL & EXTENSION), 5057 (2001 WATER & WASTEWATER BOND FUND), 5058 (2004 WATER & WASTEWATER BOND FUND), AND FUTURE WATER AND SEWER BOND FUNDS; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta ("City") is responsible for maintaining and servicing the City's sewer system and is under stringent time restraints for performing the capacity relief work of the City's sewer system per the Consent Decree and First Amended Consent Decree ("Consent Decree"); and

WHEREAS, the Department of Watershed Management has identified the need at times to acquire temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests (collectively, "Property Interests"), when capacity relief work cannot be performed within the boundaries of the City's existing permanent easements, as part of work associated with the Sandy Creek Basin Projects, Proctor Creek Basin Projects, South River Basin Projects, Sugar Creek Basin Projects, Long Island Basin Projects, Nancy Creek Basin Projects, Peachtree Creek Basin Projects, Utoy Creek Basin Projects, and Intrenchment Creek Basin Projects (collectively, "Capacity Relief Sewer Projects"); and

WHEREAS, all acquisitions of Property Interests must be commenced and completed in a timely manner in order to meet the scheduling requirements of the Consent Decree and the acquisition of required property interests on an expedited basis is deemed vital to the City; and

WHEREAS, in order to acquire the necessary Property Interests, it is in the City's best interest to allow the Mayor or her designee the authority to negotiate with property owners to acquire necessary Property Interests and/or exchange such Property Interests to complete the Capacity Relief Sewer Projects; and

WHEREAS, the Procurement and Real Estate Code of the City Code of Ordinances outlines the process for appraising, negotiating and purchasing property by the City, and the purchase price must be no less than the fair market value of the property as listed in the property appraisal, creating the established just compensation ("EJC") value of the property; and

WHEREAS, there are occurrences when real property is listed for sale at a lower price than the appraised value; and

WHEREAS, during these occurrences when real property is currently listed for a lower price than the appraised value it is in the City's best interest to purchase the real property for the lower stated value, allowing the property owner to establish the EJC value of the property via the lower listed property sale price; and

WHEREAS, O.C.G.A. §§22-3-140 and 32-3-4 allow the declaration of taking method of condemnation to be used for acquisition of private property for, among other things, public sewage collection, treatment, and disposal system purposes as provided in Article 1 of Chapter 3 of Title 32 of the Official Code of Georgia Annotated.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS:

SECTION 1: That the Mayor or her designee is authorized to negotiate with the affected property owners and perform other actions to acquire the temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests necessary to complete the Capacity Relief Sewer Projects on behalf of the City without further authorization by the City Council.

SECTION 2: That the requirements of City Code Sections 2-1517, 2-1541, and 2-1545 of the Procurement and Real Estate Code are hereby waived to the extent that such applies to the authority granted herein to acquire temporary construction easements, permanent easements, rights of entry, rights-of-way and other property interests for the Capacity Relief Sewer Projects.

SECTION 3: That the Mayor or her designee is authorized to obtain appraisals to establish the estimated just compensation ("EJC") to be offered affected property owners in connection with the Capacity Relief Sewer Projects' acquisitions, as described herein.

SECTION 4: That the Mayor or her designee is authorized to purchase Property Interests at a price lower than the appraised value if that lower price.

SECTION 5: That the City and its Chief Procurement Officer or his designee are authorized to settle acquisitions of Property Interests in an amount not to exceed ten percent (10%) above the

EJC, and offer an amount not to exceed Two Hundred Fifty Dollars and No Cents (\$250.00) more than the EJC, when the EJC is less than Two Thousand Five Hundred Dollars and No Cents (\$2,500.00)

SECTION 6: That the City's Chief Procurement Officer or his designee is authorized to administratively settle acquisitions which exceed these limitations without further authorization from Council, in an amount not to exceed twenty percent (20%) above the EJC, or for Five Hundred Dollars and No Cents (\$500.00) when the EJC is below Two Thousand Five Hundred Dollars and No Cents (\$2,500.00), whichever is greater.

SECTION 7: That if negotiations with affected property owners are successful, the Mayor or her designee is authorized to accept and execute options with such owners at the agreed price on behalf of the City for the purchase of the Property Interests in connection with the Capacity Relief Sewer Projects without further authorization from City Council.

SECTION 8: The City Attorney or her designee is authorized to monitor and supervise the closing transactions with affected property owners in connection with the Capacity Relief Sewer Projects, with the assistance of the City's real estate acquisition consultant.

SECTION 9: That if the affected property owners reject the options, and negotiations fail with such owners, the Mayor or her designee, with the assistance of the City Attorney, are authorized to use all means necessary and within their power, up to and including condemnation, to acquire the necessary Property Interests, without further authorization from City Council.

SECTION 10: That circumstances are such that at times it will be necessary to proceed with the declarations of taking as a method of condemnation, as authorized by O.C.G.A. O.C.G.A. §§22-3-140 and 32-3-4, for the construction and completion of the Projects; that the City Attorney is authorized to institute condemnation proceedings pursuant to this declaration of taking method authorized by O.C.G.A. §§22-3-140 and 32-3-4 to acquire title to easements and other related property interests necessary for the construction of the Projects, provided that such authority shall not include taking action to condemn whole parcels of land that include homesteads.

SECTION 11: That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnation proceedings, without further authorization from City Council.

SECTION 12: That the costs associated with this Ordinance shall be charged to and paid from the appropriate Account Numbers associated with Funds 5052 (Water & Wastewater Renewal & Extension), 5057 (2001 Water & Wastewater Bond Fund), 5058 (2004 Water & Wastewater Bond Fund), and future Water and Sewer bond funds.

SECTION 13: That all ordinances or parts of ordinances in conflict with this are waived to the extent of the conflict.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

APR 21, 2008
APR 28, 2008